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Message Text

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PAGE 01 STATE 046445

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DRAFTED BY SCA:SCS:TGUSTAFSON:GJL
APPROVED BY SCA:SCS:LELANE
---------- 029874
R 072254Z MAR 74
FM SECSTATE WASHDC
TO AMEMBASSY BRUSSELS

UNCLAS STATE 046445

E.O. 11652: N/A
TAGS: CGEN, BE
SUBJECT: LETTER ROGATORY: LEASCO DATA V. MAXWELL

1. U.S. COURT AWARE THAT CIVIL LAW JUDGES NORMALLY INTER-ROGATE WITNESSES WITHOUT PARTICIPATION BY ATTORNEYS. FOR THIS REASON, REQUESTED BELGIAN AUTHORITIES TO INSTRUCT WITNESS TO TESTIFY BEFORE CONSUL (A PROCEDURE EMPLOYED IN OTHER COUNTRIES, BUT NOT PREVIOUSLY IN BELGIUM.) ALTHOUGH AWARE BELGIANS MIGHT NOT AGREE, IN VIEW COMPLEXITY OF CASE AND IMPORTANCE OF DIRECT AND CROSS-EXAMINATION TO PROCEEDINGS IN U.S. DISTRICT COURT, WE ADVISED THAT WITH RESPECT TO LETTERS ROGATORY APPLICABLE RULE IS THAT "THERE IS NO HARM IN ASKING".

2. IF JUSTICE MINISTRY BELIEVES IT INAPPROPRIATE TO COMPEL APPEARANCE OF WITNESS BEFORE AMERICAN CONSUL, WOULD APPRECIATE BELGIAN GUIDANCE AS TO WHETHER WITNESS COULD BE EXAMINED BEFORE BELGIAN JUDGE BY ATTORNEYS FROM U.S. QUESTIONS COULD BE PUT DIRECTLY OR THROUGH BELGIAN JUDGE OR THROUGH BELGIAN ATTORNEY. ASSOCIATE BELGIAN COUNSEL IN THIS CASE IS P.R. HENDRICKX OF DIESBACH, VERHAEGEN ET ASSOCIES, RUE BREDERODE 2, 1000 BRUSSELS, TELEPHONE:129168.

3. WISH MINISTRY TO UNDERSTAND THAT REQUEST IS NOT MATTER OF PRINCIPLE, BUT MERELY EFFORT TO OBTAIN TESTIMONY IN FORM MOST USEFUL TO AMERICAN COURT. APPRECIATE VARIANCE IN
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BELGIAN AND AMERICAN JUDICIAL PROCEDURES AND THAT U.S.
PROCEDURE WOULD NOT BE APPROPRIATE WERE CASE BEFORE
BELGIAN TRIBUNAL FOR DECISION. IN PRESENTING LETTER
ROGATORY, DEPARTMENT DESIRES ONLY THAT BELGIAN AUTHORITY
CONSIDER REQUEST AND PROVIDE SUCH ASSISTANCE TO AMERICAN
COURT AS IT CAN WITHOUT COMPROMISING BELGIAN LAWS. KISSINGER

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Decaption Note:
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Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
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Executive Order: N/A
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